

93.133(1) *Acceptable instances when a person is excused from participation.*

- a. Illness. When a participant is ill more than three consecutive days or if illness is habitual, staff may require medical documentation of the illness.
- b. Required in the home due to illness of another family member. Staff may require medical documentation for the same reasons as when a participant is ill.
- c. Family emergency, using reasonable standards of an employer.
- d. Bad weather, using reasonable standards of an employer.
- e. Absent or late due to participant's or spouse's job interview. When possible, the participant shall provide notice of the interview at least 24 hours in advance including the name and address of the employer conducting the interview. When 24-hour notice is not possible, notice must be given as soon as possible and prior to the interview.
- f. Leave due to the birth of a child. When a child is born after referral, necessary absence shall be determined in accordance with the Family Leave Act of 1993.

93.133(2) *Acceptable instances when a person is excused from participation or for refusing or quitting a job or limiting or reducing hours or for discharge from employment due to misconduct as described at rule 441—93.132(239B).*

- a. Required travel time from home to the job or available work experience or unpaid community service site exceeds one hour each way. This does not include additional travel time necessary to take a child to a child care provider.
- b. Except as described in 441—subrule 41.25(5) and 441—paragraph 42.24(1) “c,” work offered is at a site subject to a strike or lockout, unless the strike has been enjoined under Section 208 of the Labor-Management Relations Act (29 U.S.C. 78A) (commonly known as the Taft-Hartley Act), or unless an injunction has been issued under Section 10 of the Railway Labor Act (45 U.S.C. 160).
- c. Violates applicable state or federal health and safety standards or workers' compensation insurance is not provided.
- d. Job is contrary to the participant's religious or ethical beliefs.
- e. The participant is required to join, resign from or refrain from joining a legitimate labor organization.
- f. Work requirements are beyond the mental or physical capabilities as documented by medical evidence or other reliable sources.
- g. Discrimination by an employer based on age, race, sex, color, handicap, religion, national origin or political beliefs.
- h. Work demands or conditions render continued employment unreasonable, such as working without being paid on schedule.
- i. Circumstances beyond the control of the participant, such as disruption of regular mail delivery.

93.133(3) *Jobs that participants have the choice of refusing or quitting or limiting or reducing, or instances when participants are excused for discharge from the job due to misconduct as described at rule 441—93.132(239B).*

- a. Employment change or termination is part of the FIA.
- b. Job does not pay at least the minimum amount customary for the same work in the community.
- c. Employment is terminated in order to take a better-paying job, even though hours of employment may be less than current.
- d. The employment would result in the family of the participant experiencing a net loss of cash income. Net loss of cash income results if the family's gross income less necessary work-related expenses is less than the cash assistance the person was receiving at the time the offer of employment is made. Gross income includes, but is not limited to, earnings, unearned income, and cash assistance. Gross income does not include food stamp benefits and in-kind income.
- e. The employment changes substantially from the terms of hire, such as a change in work hours, work shift, or decrease in pay rate.

93.133(4) *Instances when problems of participation could negatively impact the client's achievement of self-sufficiency.* There may be instances where staff determine that a participant's problems of participation are not described in 93.133(1) to 93.133(3), but may be circumstances which could negatively impact the participant's achievement of self-sufficiency. When this occurs, the case shall be referred to the administrator of the division of economic assistance for a determination as to whether the problems are acceptable instances for not participating or for refusing or quitting a job or for discharge from employment due to misconduct as described at rule 441—93.132(239B).

441—93.134(239B) Barriers to participation. Problems with participation of a permanent or long-term nature shall be considered barriers to participation and shall be identified in the FIA as issues to be resolved so that participation can result. These barriers may be identified during assessment and shall be part of the FIA from the beginning. When barriers are revealed by the participant during the FIA or are identified by problems which develop after the FIA is signed, the FIA shall be renegotiated and amended to provide for removal of the barriers. FIA-responsible persons who choose not to cooperate in removing identified barriers to participation shall be considered to have chosen the LBP.

Barriers to participation shall include, but not be limited to, the following:

1. Child or adult care is needed before a person can participate or take a job, and the care is not available. Participants are not required to do any activity unless suitable child or adult care has been arranged. In limited instances where special-needs care is not available, it may be most practical for the participant to develop the FIA to identify providing the child or adult care as the FIA option.
2. Lack of transportation.
3. Substance addiction.
4. Sexual or domestic abuse history.
5. Overwhelming family stress.

441—93.135(239B) Required client documentation. Documentation necessary to verify that the PROMISE JOBS participant is carrying out the terms of the FIA shall be provided by the participant.

93.135(1) Written verification. The client can be required to provide written verification of family emergency, lack of transportation, or job search activities. It is the responsibility of the client to notify program staff or work site supervisors as soon as possible that a lack of transportation or family emergency has occurred and the expected duration.

93.135(2) Time and attendance. The participant's hours of attendance in work and training activities shall be verified monthly.

- a. When the participant is in the work experience (WEP) component, the hours of participation shall be verified monthly by the work site, within ten calendar days following the end of each month.
- b. Rescinded IAB 3/3/93, effective 5/1/93.
- c. When work and training services are provided by training institutions, organizations, agencies, or persons outside of the PROMISE JOBS program, unless some other method is agreed to by the provider and PROMISE JOBS staff, the participant's hours of attendance shall be verified on the PROMISE JOBS Time and Attendance Report, Form 470-2617, which shall be signed and dated by the training provider. When a training provider refuses or fails to verify the hours of attendance, a signed and dated statement from the participant on Form 470-2617 shall be accepted in lieu of a signed statement from the training provider. The form shall be returned by the training provider or client within ten calendar days following the end of each month. In those instances when a training provider refuses or fails to return a completed, signed and dated PROMISE JOBS Time and Attendance Report, Form 470-2617, and it is necessary to request that the form be completed by the participant instead, the participant shall be allowed five working days to provide the form, even if the fifth working day falls on or after the tenth calendar day following the end of the month.

d. In those instances where the participant is involved in an activity, other than job search, which is not directly monitored by the PROMISE JOBS worker or an outside training provider, the participant shall record the hours of participation on the PROMISE JOBS Time and Attendance Report, Form 470-2617, and shall sign and date the form. The PROMISE JOBS worker shall review the form. The participant's hours shall be accepted unless the PROMISE JOBS worker has justifiable cause to doubt the accuracy of the hours. If the PROMISE JOBS worker accepts the hours, the PROMISE JOBS worker shall also sign and date the form. The form shall be returned within ten calendar days following the end of each month. If the hours reported are questioned, the PROMISE JOBS worker shall meet with the participant to resolve the discrepancy. The participant shall provide further verification, if required.

e. When a participant involved in any PROMISE JOBS component fails to verify the participant's hours of attendance as described above, the participant shall lose the right to priority service if a volunteer participant, or enter the limited benefit plan if a mandatory participant. Policies at subrule 93.138(3) apply.

93.135(3) *Job search documentation.* Documentation of any job search activities which cannot be documented by the PROMISE JOBS worker shall be provided by the participant using Form 470-3099, Job Search Record. The Job Search Record shall include the name and address of the employer, the name and telephone number of the contact person, the date on which contact was made, and the outcome of the contact. It shall also contain authorization for PROMISE JOBS staff to telephone any listed employer to verify the contact.

The Job Search Record shall be provided within five working days after the last working day of any week during which the participant has made a job search. Participants who fail to provide all information described above on the Job Search Record or do not provide the documentation timely have chosen the limited benefit plan. Policies at rule 441—93.132(239B), numbered paragraph “7,” rules 441—93.133(239B) and 441—93.134(239B), and subrule 93.138(3) apply.

93.135(4) *Employment verification.* When the information is not available from any other source, participants shall verify scheduled and actual hours of employment at the time that employment begins and on a monthly basis thereafter. Participants may use employer statements, copies of pay stubs, or may sign Form MH-2201-0, Consent to Release or Obtain Information, so that the employer may provide information directly to the PROMISE JOBS worker.

Participants shall provide verification of scheduled and actual hours of employment within ten calendar days following the end of each month for ongoing employment.

441—93.136(249C) *Duration of probationary periods.* Rescinded IAB 12/8/93, effective 1/1/94.

441—93.137(239B) *Written notification.* Clients shall be notified in writing of all scheduled meetings, component assignments, work site assignments, and participation issues as described at rule 441—93.132(239B). Written notice to the participant shall also be provided when a physical examination, doctor's statement, employment verification, or other verification is required. Participants shall be allowed 45 calendar days from the date notice is mailed to provide a physical examination report. Five working days shall be allowed from the date notice is mailed for a participant to appear for scheduled meetings, component or work site assignments, provide a doctor's statement, employment verification, or provide other verification. Additional time shall be allowed when it is verified that a participant is making every effort but is unable to fulfill requirements within the established time frames.

441—93.138(239B) Resolution of disputes around the FIA and PROMISE JOBS participation.

93.138(1) *Informal resolution process.* When there is a disagreement between the participant and the immediate PROMISE JOBS worker regarding the participant's FIA or participation in PROMISE JOBS components, the participant can request to talk to the supervisor and request a decision on the dispute. The supervisor shall schedule a face-to-face interview with the participant within 7 days and issue a decision in writing within 14 days of the participant's request.

93.138(2) *Resolution process for FIP participants who choose a first limited benefit plan.* Before a notice of decision establishing a first limited benefit plan is issued, the case shall be reviewed in a procedure approved by the division of workforce development administration in the workforce development department. The procedure may include review by state-level division of workforce development administration staff or by a regional PROMISE JOBS manager, a PROMISE JOBS supervisor, an income maintenance supervisor, a person designated to coordinate services for FIP participants in the area, or a combination of any of the above. Approval of any review procedure at less than the state level for participants choosing a limited benefit plan by not carrying out the FIA responsibilities shall occur only after the service delivery region demonstrates satisfactory performance of the resolution process. The department of human services retains control and oversees review procedures through its contract with the workforce development department.

The notice of decision establishing a first limited benefit plan shall inform the FIP participant that the participant may reconsider at any time from the date timely and adequate notice is issued establishing the limited benefit plan. The notice of decision shall inform the participant that the participant shall contact the department or appropriate PROMISE JOBS office to reconsider the limited benefit plan.

a. For participants who choose a first limited benefit plan, the notice of decision shall inform the participant of the action needed to reconsider the limited benefit plan as described at 441—subparagraph 41.24(8) “d”(1).

(1) When the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to begin or resume development of the FIA as described elsewhere in these rules.

(2) When the FIA is signed, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated. FIP benefits shall be effective as described at 441—subparagraph 41.24(8) “d”(1).

b. For participants who choose a first limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall make every effort to negotiate for a solution, clearing misunderstanding of expectations or identifying barriers to participation which should be addressed in the FIA. The PROMISE JOBS supervisor shall be involved to provide further advocacy, counseling, or negotiation support, such as when a participant fails to respond to the PROMISE JOBS worker's request to renegotiate the FIA when the participant has not attained self-sufficiency by the date established in the FIA. An LBP shall be imposed regardless of whether the request to renegotiate is made prior to or after expiration of the FIA.

(1) Local PROMISE JOBS management shall have the option to involve an impartial third party to assist in a resolution process. Arrangements shall be indicated in the local services plan of the local service delivery region.

(2) If the above resolution actions do not lead to fulfillment of the FIA, the case shall be referred for review as previously stated in this rule.

(3) If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen the limited benefit plan and the notice of decision shall be initiated. The notice of decision shall inform the participant of the action needed to reconsider the limited benefit plan as described at 441—subparagraph 41.24(8)“d”(1).

(4) When the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to sign a new or updated FIA as described elsewhere in these rules.

(5) When the FIA is signed and the participant has satisfactorily completed significant action, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated. FIP benefits shall be effective as described at 441—subparagraph 41.24(8)“d”(1).

c. Appeal rights under the limited benefit plan are described at rule 441—93.140(239B), and judicial review upon petition of the participant is always available.

93.138(3) *Resolution process for FIP participants who choose a subsequent limited benefit plan.* The notice of decision establishing a subsequent limited benefit plan shall inform the FIP participant of the six-month ineligibility period and that the participant may reconsider at any time following the six-month ineligibility period. To reconsider, the participant must complete significant contact with or action in regard to the PROMISE JOBS program as described at 441—subparagraph 41.24(8)“d”(3). When the six-month ineligibility period ends, and the participant contacts either the income maintenance worker or the PROMISE JOBS office, the participant shall be scheduled to sign a new or updated FIA and to begin significant action as described at 441—subparagraph 41.24(8)“d”(3). When the FIA is signed and the participant has satisfactorily completed the significant action, the PROMISE JOBS worker shall notify the department and the limited benefit plan shall be terminated. FIP benefits shall be effective as described at 441—subparagraph 41.24(8)“d”(3).

a. For participants who choose a subsequent limited benefit plan as described at 441—subparagraph 41.24(8)“c”(1), the PROMISE JOBS supervisor shall send the participant one letter to explain the consequences of a subsequent limited benefit plan and to offer the participant an additional ten calendar days to schedule an orientation appointment before a notice of decision establishing the subsequent limited benefit plan is issued.

b. For participants who choose a subsequent limited benefit plan by not carrying out the FIA responsibilities, the PROMISE JOBS worker shall make every effort to negotiate for a solution, clearing misunderstanding of expectations or identifying barriers to participation which should be addressed in the FIA, such as when a participant fails to respond to the PROMISE JOBS worker’s request to renegotiate the FIA when the participant has not attained self-sufficiency by the date established in the FIA. An LBP shall be imposed regardless of whether the request to renegotiate is made prior to or after expiration of the FIA.

(1) The PROMISE JOBS supervisor shall be involved to provide further advocacy, counseling, or negotiation support. The resolution actions of the supervisor shall be documented in the participant case file.

(2) Local PROMISE JOBS management shall have the option to involve an impartial third party to assist in a resolution process. Arrangements shall be indicated in the local services plan of the local service delivery region.

c. Before a notice of decision to establish a second limited benefit plan is issued, the case shall be referred to the division of workforce development administration for a review by state-level workforce development department staff. The department of human services retains control and oversees review procedures through its contract with the workforce development department.

d. If the above steps do not lead to fulfillment of the FIA, the FIP participant is considered to have chosen a subsequent limited benefit plan and the notice of decision establishing the limited benefit plan shall be initiated. The notice of decision shall inform the participant of the action needed to reconsider the limited benefit plan as described at 441—subparagraph 41.24(8)“d”(3).

e. Appeal rights under the limited benefit plan are described at rule 441—93.140(239B), and judicial review upon petition of the participant is always available.

f. A qualified professional shall attempt to visit with the participant family with a focus upon the children's well-being as described at subrule 93.138(4).

93.138(4) *Check on the well-being of the children in subsequent LBP households.* For FIP households who have chosen a subsequent LBP, a qualified professional shall attempt to visit with the participant family with a focus upon the children's well-being. The visit shall be performed during or within four weeks of the second month of the start of the subsequent benefit plan. The department may contract out for these services.

All visits to the FIP household shall be made in the spirit of supporting families who have chosen the LBP. The instructions for the visits shall be written to make it clear that these visits are an extension of the FIP and FIA philosophy of supporting families as they move toward self-sufficiency. If at any of the visits, initial or follow-up, the family denies entry to the qualified professional, this fact shall be reported to the department and no further action shall be taken.

a. The qualified professional shall visit the family in a spirit of supporting the family to move toward self-sufficiency, which could mean exploring with the family their alternative plan, identifying areas where the qualified professional can help.

The qualified professional's home visit shall include, but is not limited to, discussing reasons for not participating in the FIA; offering to problem solve with perceived problems of the FIA participation; being a liaison with PROMISE JOBS and IM; recommending to IM when conditions seem to warrant exemption; assessing family ability to assess their situation and plan for the well-being of the family; discussing specific future plans, for example, child care, to ensure that the family has realistic plans; using the minimum sufficient level of care concept as the standard for evaluating the family plan for the future; planning appropriate follow-up visits or referrals for services if the minimum sufficient level of care standard is not met.

b. Rescinded IAB 4/7/99, effective 5/31/99.

c. The qualified social services professional shall report results of the home visits to the department, using the following categories of response:

- (1) Qualified social services professional was denied entry to the home.
- (2) Why no further involvement is needed.
- (3) The qualified social services professional needs to provide follow-up services or referral to other services, identifying services needed.
- (4) Referral to child protective investigations is warranted based on allegations of child abuse or neglect.

441—93.139(239B) Notice of decision. PROMISE JOBS will send written notice to each client in accordance with 441—Chapter 7 when:

1. Services are approved, rejected, renewed, changed, canceled, or terminated for failure to cooperate or participate. PROMISE JOBS services are considered to be approved at that point in time when the client is assigned to begin participation in the assessment component or when assessment has been waived and the participant is assigned to another PROMISE JOBS component.

2. An expense allowance is offset or the offset amount is changed due to action to recover an overpayment.

441—93.140(239B) Right of appeal. Each applicant and recipient is entitled to appeal and be granted a hearing over disputes regarding services being received or services which have been requested and denied, reduced, canceled, or inadequately provided, and acts of discrimination on the basis of race, sex, national origin, religion, age or handicapping condition according to 441—Chapter 7.

93.140(1) *Right to appeal alleged violation of PROMISE JOBS program policy.* Participants shall have the right to file a written appeal concerning any alleged violation of PROMISE JOBS program policy as set forth in these administrative rules which is imposed as a condition of participation. The responsible agency (workforce development department or Job Training Partnership Act program) shall provide the participant with written documentation which specifies the participation requirement in dispute.

93.140(2) *Appeal rights under the limited benefit plan.* A participant only has the right to appeal the establishment of the limited benefit plan once at the time the department issues the timely and adequate notice that establishes the limited benefit plan.

However, when the reason for the appeal is based on incorrect grant computation, an error in determining the eligible group, or another worker error, a hearing shall be granted when the appeal otherwise meets the criteria for hearing.